

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

Crl.MC.No. 3568 of 2007()

CRIME NO. 28/03 OF MUSEUM POLICE STATION
CC.220/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM
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PETITIONER: 2ND ACCUSED

DEEPULAL @ THANKU, S/O. VELAPPAN,
VISAKH HOUSE, TC 16/915(1), DRAINAGE ROAD,
SEEKRISHNA NAGAR, JAGATHY WARD, THYCAUD VILLAGE.

BY ADV. SRI.D.KISHORE

RESPONDENTS: STATE & COMPLAINANT

1. STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. THE SUB INSPECTOR OF POLICE,
MUSEUM POLICE STATION, THIRUVANANTHAPURAM.
3. SUNIL V.ABBAS, S/O. ABBASKUTTY,
TC 16/922, SREEKRISHNA NAGAR, DRAINAGE ROAD,
JAGATHY WARD, JAGATHY, THIRUVANANTHAPURAM.
4. NAJITHA BEEVI,
TC 16/922, SREEKRISHNA NAGAR, DRAINAGE ROAD,
JAGATHY WARD, JAGATHY, THIRUVANANTHAPURAM.
5. ABBASKUTTY,
TC 16/922, SREEKRISHNA NAGAR, DRAINAGE ROAD,
JAGATHY WARD, JAGATHY, THIRUVANANTHAPURAM.

R1 & 2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 3568 of 2007

Dated this the 11th day of December, 2007

ORDER

The petitioner is the second accused and he faces indictment in a prosecution for offences punishable, inter alia, under Sections 143, 147, 148, 323, 324 & 354 r/w, 149 I.P.C. The case against all the co-accused has already been disposed of. The petitioner could not appear at that stage. Hence the case against him has been split up and that alone is continuing now. The petitioner wants to appear before the learned Magistrate and seek premature termination of the proceedings by invoking the jurisdiction under Section 258 Cr.P.C.

2. The learned counsel for the petitioner contends that the offences punishable under Sections 323, 324 and 354 I.P.C. are all compoundable. He wants to ensure that an application for composition is filed for the compoundable offences. He has a further contention that the co-accused having already been found not guilty and acquitted, he is entitled for premature termination

of the proceedings by invoking the jurisdiction under Section 258 Cr.P.C.

3. The petitioner can certainly appear before the learned Magistrate and seek composition of the compoundable offences. He can certainly urge before the learned Magistrate that in view of the composition of the compoundable offences as also the acquittal of all the co-accused for offences under Sections 143, 147 and 148 I.P.C. the prosecution against the petitioner need not continue and is liable to be discontinued under Section 258 Cr.P.C. The learned Magistrate must consider such contentions and pass appropriate orders.

4. The counsel finally submits that if personal presence of the petitioner were insisted, that would cause great hardship and loss to the petitioner. All offences are found to be summons offences and I find no reason why the petitioner cannot apply for exemption under Section 205 Cr.P.C. Such application, if filed, will be considered by the learned Magistrate on merits and appropriate orders passed, notwithstanding the circumstance that a non-bailable warrant may be pending against the petitioner.

5. This Crl.M.C. is allowed to the above extent.

(R. BASANT)
Judge

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